

NOV 29 2006

MARY L.M. MORAN
CLERK OF COURT

[Appearing Counsel on next page]

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

JULIE BABAUTA SANTOS, *et. al.*,

Petitioners,

-v-

FELIX P. CAMACHO, *et. al.*

Respondents.

Civil Case No. 04-00006

**JOINT STATUS REPORT PURSUANT
TO THE COURT'S NOVEMBER 28,
2006 ORDER**

CLASS ACTION

CHARMAINE R. TORRES, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM, *et al.*,

Defendants.

Civil Case No. 04-00038

MARY GRACE SIMPAO, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM,

Defendant.

Civil Case No. 04-00049

-v-

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant.

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1 **JOINT STATUS REPORT**

2 Petitioner JULIE BABAUTA SANTOS (Civ. Case No. 04-00006) and Plaintiff
3 CHARMAINE R. TORRES (Civ. Case No. 04-00038) (collectively "Petitioners") respectfully
4 submit this joint report to the Court pursuant to the Court's Order of November 28, 2006.

5 **A. Case Background**

6 This litigation was initiated first with the *Santos* action in February 2004 (Civ. Case No.
7 04-00006), followed by the *Torres* action in August 2004 (Civ. Case No. 04-00038), and then the
8 (non-settling) *Simpao* action in December 2004 (Civ. Case No. 04-00049). This case involves the
9 Government of Guam's alleged non-payment of Earned Income Tax Credits to eligible Guam
10 taxpayers. The Court consolidated the cases for pretrial purposes in March 2006, and granted the
11 Governor of Guam's request for mediation under Local Rule 16.6. *See* Order Re Settlement
12 Conference Pursuant to Local Rule 16.6 (March 21, 2006). The parties agreed on a mediator and
13 engaged in mediation; however, only parties to the *Santos* and *Torres* actions were able to
14 successfully reach a settlement, which then resulted in the execution of a new Settlement
15 Agreement presented to the Court on May 26, 2006.

16 Prior to the execution of the May 26, 2006 Settlement Agreement, two prior settlement
17 agreements were entered into in the *Santos* action, one in 2004, the other in 2005. Compared to
18 the settlement reached in the *Santos* case on June 20, 2005 (the "2005 Settlement Agreement"),
19 the May 26, 2006 Settlement Agreement involves parties to both the *Santos* and *Torres* actions.
20 It was the result of mediation held in Guam over three (3) full days, from April 6-8, 2006, before
21 a distinguished JAMS mediator, the Hon. William J. Cahill. (Ret. Judge). The agreement
22 enlarges the putative class that will benefit from the settlement while providing enhanced benefits
23 to the putative class compared to the benefits provided for under the 2005 Settlement Agreement.

24 **B. Current Status of the Case**

25 The *Santos* and *Torres* parties submitted a number of filings in connection with the May
26 26, 2006 Settlement Agreement. Pending before the Court are a number of motions including
27 the following:
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- 1 • Joint Motion for Preliminary Approval of Class Action Settlement Agreement
2 (Docket No. 320);
- 3 • Motion for Leave to File Joint Petition for Declaratory and Injunctive Relief,
4 and/or for Recovery of Earned Income Tax Credits, or in the Alternative for a Writ
5 of Mandamus (Docket No. 326);
- 6 • Motion for Attorneys' Fees and Costs Pursuant to Section II(a)(iv) of the May 26,
7 2006 Class Action Settlement Agreement (Docket No. 328);
- 8 • Amended Motion for Conditional Certification of the EIC Class for Settlement
9 Purposes (Docket No. 347, amending Docket No. 329); and
- 10 • Amended Motion for Appointment of Lead Class Counsel (Docket No. 348,
11 amending Docket No. 275)

12 Petitioners last submitted a status report to the Court on August 11, 2006 (see Docket No.
13 350), a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.
14 The status report was filed pursuant to the Court's Order of July 19, 2006, a copy of which is
15 attached hereto as Exhibit "B." Since the filing of the report, the Plaintiffs in the non-settling
16 *Simpao* action have filed papers opposing the Joint Motion for Preliminary Approval of the May
17 26, 2006 Settlement Agreement, as well as the Amended Motion for Appointment of Lead Class
18 Counsel. No other significant activity in the case has occurred.

19 Petitioners ask the Court to grant the foregoing motions which were submitted by the
20 settling parties in the *Santos* and *Torres* actions. Petitioners believe that the terms of the May 26,
21 2006 settlement agreement will go a long way toward ensuring that the members of the EIC class
22 are justly compensated for their EIC claims, and that the earned income tax credit program is
23 implemented in Guam henceforth.

1 **RESPECTFULLY SUBMITTED** this 29th day of November, 2006.

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3 **PHILLIPS & BORDALLO, P.C.**

4
5 By: 
 MICHAEL F. PHILLIPS, ESQ.

6 *Attorneys for Petitioner Julie Babauta Santos*
7 *and Interim Class Counsel*

8 **LUJAN AGUIGUI & PEREZ LLP**

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10 By:  *fw*
 IGNACIO C. AGUIGUI, ESQ.

11 *Attorneys for Plaintiff Charmaine R. Torres*

EXHIBIT “A”

[Appearing Counsel on next page]

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DISTRICT COURT OF GUAM

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DISTRICT COURT OF GUAM

TERRITORY OF GUAM

MARY L.M. MORAN
CLERK OF COURT

JULIE BABAUTA SANTOS, *et. al.*,

Petitioners,

-v-

FELIX P. CAMACHO, *et. al.*

Respondents.

Civil Case No. 04-00006

**JOINT STATUS REPORT PURSUANT
TO THE COURT'S JULY 19, 2006
ORDER**

CLASS ACTION

Civil Case No. 04-00038

CHARMAINE R. TORRES, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM, *et al.*,

Defendants.

Civil Case No. 04-00049

MARY GRACE SIMPAO, *et al.*,

Plaintiffs,

-v-

GOVERNMENT OF GUAM,

Defendant.

-v-

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant.

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Attorneys for Plaintiff Charmaine R. Torres

1 **JOINT STATUS REPORT**

2 Petitioner JULIE BABAUTA SANTOS (Civ. Case No. 04-00006) and Plaintiff
3 CHARMAINE R. TORRES (Civ. Case No. 04-00038) (collectively "Petitioners") respectfully
4 submit this joint report to the Court pursuant to the Court's Order of July 19, 2006.

5 Petitioners thank the Court for considering the pending motions concerning the May 26,
6 2006 Class Action Settlement Agreement. Petitioners believe that the terms of the most recent
7 settlement agreement will go a long way toward ensuring that the members of the EIC class are
8 justly compensated for their EIC claims, and that the earned income tax credit program is
9 implemented in Guam henceforth. Petitioners also thank the Court for granting the Dismissal of
10 Claims Against Attorney General Douglas B. Moylan, Docket No. 330, and for adopting the
11 Report and Recommendations of the Magistrate Judge in *Torres v. Government of Guam*, Civ.
12 Case No. 04-00038, Docket No. 64.

13 **A. Supplemental Filings**

14 In its July 19, 2006 Order, the Court ordered the parties to submit any supplemental filings
15 on motions filed in connection with the May 26, 2006 Settlement Agreement. Accordingly,
16 Petitioners are filing concurrently herewith an Amended Motion for Conditional Certification of
17 the EIC Class for Settlement Purposes. Petitioners respectfully ask the Court to grant the motion.

18 **B. Prior Motions**

19 In its July 29, 2006 Order, the Court also asked the parties to file a status report to advise
20 whether any motions pending prior to the entry of the recent May 26, 2006 Settlement Agreement
21 are to be considered moot in light of the recent settlement. Petitioners believe that with the
22 exception of Petitioner Santos's November 14, 2005 Motion for Appointment of Class Counsel
23 and the accompanying Declaration of Interim Class Counsel Michael F. Phillips in support of the
24 motion (Docket Nos. 275 and 276 respectively, Civ. Case No. 04-00006), all of the other motions
25 are now moot. Petitioners ask the Court to consider the Motion for Appointment of Class
26 Counsel, but in an amended form that takes into account developments occurring since the filing
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1 of the original motion, including of course, the execution of the May 26, 2006 Settlement
2 Agreement.

3 Consequently, Petitioner Santos is filing concurrently herewith an Amended Motion for
4 Appointment of Lead Class Counsel and an amended Declaration of Interim Class Counsel
5 Michael F. Phillips in support thereof. Both the Amended Motion and the Declaration are also
6 intended to support and be read in conjunction with Petitioners' Amended Motion For Attorneys'
7 Fees And Costs Pursuant To Section II(a)(iv) Of The May 26, 2006 Class Action Settlement
8 Agreement (Docket No. 331, Civ. Case No. 04-00006.) Petitioners ask the Court to grant the
9 motions.

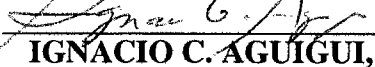
10 **RESPECTFULLY SUBMITTED** this 11th day of August, 2006.

11
12 **PHILLIPS & BORDALLO, P.C.**

13
14 By: 
MICHAEL F. PHILLIPS, ESQ.

15 *Attorneys for Petitioner Julie Babauta Santos*
16 *and Interim Class Counsel*

17 **LUJAN AGUIGUI & PEREZ LLP**

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19 By: 
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EXHIBIT “B”

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

JULIE BABAUTA SANTOS, *et al.*,

Plaintiffs,

vs.

FELIX A. CAMACHO, *et al.*,

Defendants.

Civil Case No. 04-00006

ORDER

CHARMAINE R. TORRES, *et al.*,

Plaintiffs,

vs.

GOVERNMENT OF GUAM, *et al.*,

Defendants.

Civil Case No. 04-00038

MARY GRACE SIMPAO, *et al.*,

Plaintiffs,

vs.

GOVERNMENT OF GUAM,

Defendant.

vs.

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant

Civil Case No. 04-00049

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JUL 20 2006

LUJAN AGUIRRE & PEREZ LLP

Before the Court are a number of recent filings by the Santos and Torres parties: Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Docket No. 320; Motion for Leave to File Joint Petition for Declaratory and Injunctive Relief, and/or for Recovery of Earned Income Tax Credits, or in the Alternative for a Writ of Mandamus, Docket No. 326; Motion for Attorneys' Fees and Costs Pursuant to Section II(a)(iv) of the May 26, 2006 Class Action Settlement Agreement, Docket No. 328; Joint Motion of the Parties for Conditional Certification of the EIC Class for Settlement Purposes, Docket No. 329; Notice of Dismissal of Claims Against Attorney General Douglas B. Moylan, Docket No. 330.¹

The Court had stayed its decisions regarding these motions because of the interlocutory appeal filed by the Attorney General. However, in light of the Ninth Circuit's denial of the Attorney General's petition for permission to appeal, the Court finds that these matters should be addressed and the case proceed. In that regard, the Court takes these matters under advisement. Any supplement filings as to these matters should be submitted no later than August 11, 2006. Thereafter, if a hearing is necessary, one will be scheduled. In the meanwhile, the Court notes that there is no need for further briefing as to the plaintiffs' Dismissal of Claims Against Attorney General Douglas B. Moylan, Docket No. 330 and that that motion is hereby GRANTED.

Further the Court notes that there are a number of prior motions filed that may now be moot because of subsequent filings such as: Petitioners' Motion for Conditional Certification of the EIC Class for Settlement Purposes, Docket No. 211; Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Docket No. 212; Counsel for Petitioners' Motion for Attorney Fees and Costs, Docket No. 277. If this is not the case, the parties are to file a status report concerning the motion in question and explain the basis as to why it should not be considered moot by August 11, 2006. Provided no status report is filed by then, the Court will consider these motions moot without further order of the Court.

Lastly, in consideration of the present posture of the cases, the Court adopts the Report and Recommendations of the Magistrate Judge in *Torres v. Government of Guam*, Civ. Case No. 04-

¹The Docket Numbers referred to in this paragraph are those as set forth in *Santos v. Camacho*, Civ. Case No. 04-00006.

1 00038, Docket No. 64.²

2 SO ORDERED this 19th day of July, 2006.

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/s/ Ricardo S. Martinez
RICARDO S. MARTINEZ
United States District Judge

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27 ²Docket Number 64 concerns the Report and Recommendation filed in *Torres v.*
28 *Government of Guam*, Civ. Case No. 04-00038.

³The Honorable Ricardo S. Martinez, United States District Judge for the Western
District of Washington, by designation.